

DOCKET NO.: 130694.5811

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Doms et al.**

Title: **Lipoparticle comprising a protein and methods of making and using the same**

Serial No.: **10/032,311**

Group Art Unit: **1648**

Examiner: **Jeffrey S. Parkin**

Confirmation No.: **6825**

Filed by EFS Web on: **March 9, 2010**

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT

UNDER 37 C.F.R. § 1.705(d)

Patentee hereby requests reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent. Reconsideration of the final PTA calculation to increase total PTA from 407 to 687 days, is respectfully requested. Applicants include herewith the petition and payment of the appropriate fee. The Commissioner is hereby authorized to debit any fee due from deposit account 50-0436.

Remarks

In calculating the number of days that the Applicants are entitled to for patent term adjustment (PTA) the Office counted 29 days as Applicant Delay due to the filing of a Supplemental Response on July 20, 2006. The Supplemental Response was filed after Applicants held a telephonic interview with the Examiner on July 6, 2006. During the interview the Examiner expressly requested that we submit the supplemental response that was filed on July 20, 2006. (See, Supplemental Response, filed July 20, 2006, p. 1.) Accordingly, the 29 days that the Office has counted as Applicant Delay is not Applicant Delay due to the express request by the Examiner.

In view of the foregoing, Applicants respectfully request that the Office recalculate PTA in view of the express request for the supplemental response.

Conclusion

In consideration of the events described above, Patentee believes the PTA calculation of 407 days is incorrect. As such, Patentee respectfully requests reconsideration of the PTA in the following manner:

- 1) Total PTO Delay should be calculated as 639 days;
- 2) Total Applicant Delay should be calculated as 203 days; and
- 3) Total PTA should be calculated as 436 days.

The calculation above does not include the delay due to the Office failing to issue the patent within 3 years of the filing date of the above-identified application. The delay due to the 3-year delay will be at least 251 days, however, the Office does not calculate the 3-year delay until the patent issues. Accordingly, Applicants respectfully assert that the final PTA will be 687 days, which includes the 436 days as calculated above and the 251 days due to the Office's failure to issue the patent within 3 years of the filing date.

In view of the foregoing, Applicants respectfully request that upon issuance that the PTA be determined to be at least 687 days.

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The Commissioner is hereby authorized to debit any fee due or credit any overpayment to deposit account 50-0436.

Respectfully submitted,

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Registration No. 52,201.

Date: **March 9, 2010**

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